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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/407,124	09/27/1999	WILLIAM D. KENNEDY	72755-020100	2321

33717 7590 05/22/2008  
GREENBERG TRAURIG LLP (LA)  
2450 COLORADO AVENUE, SUITE 400E  
INTELLECTUAL PROPERTY DEPARTMENT  
SANTA MONICA, CA 90404

EXAMINER
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ALVAREZ, RAQUEL

ART UNIT	PAPER NUMBER
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3688

MAIL DATE	DELIVERY MODE
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05/22/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/407,124	KENNEDY, WILLIAM D.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Raquel Alvarez	3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 22,23,29-35 and 54-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22,23,29-35 and 54-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. This office action is in response to communication filed on 2/15/2008.
2. Claims 22-23, 29-35, 54-58 are presented for examination. Claim 22 have been amended and claims 54-58 have been added.

#### **Claim Rejections - 35 USC § 103**

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 22-23, 29-35 and 54-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. (5,712,989 hereinafter Johnson). in view of Official Notice.

With respect to claims 22, 29-32, and 54, 58 Johnson teaches an electronic commerce system. A host (Figure 1, item 10) adapted for two-way communication with a distributor offering an inventory of merchandise comprising discrete items (Figure 1, 52), said host adapted to issue order to the plurality of distributors in response to purchase requests received (see figure 1); and

A store builder adapted suitable adapted to, in response to a request from a store owner, create a store managed by the host for the store owner, said store providing a consumer with access, via said distributors, to at least one merchandise item selected from the inventory (Figures 1, 2B and 3); the store is customized by store name (see table V).

Johnson teaches on col. 4, lines 1-3 that "Distributor may elect to stock in Distributor warehouse 30 some or **all the items for a particular vendor** of either type 38 or type 39"(inventory of items). Johnson doesn't specifically teach a plurality of distributors. Official Notice is taken that it is old and well known to include more than one distributor in order to allow more than one distributor to mark, describe, record and report the items sold. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included a plurality of distributors in order to achieve the above mentioned advantage.

With respect to the host being operated by a host owner which is a different entity that the distributor. Official Notice is taken that it is old and well known in marketing and the like for entities to give an assignment to (a person or entity) or assign a task to (a person or entity) in order to delegate responsibilities to others. It would have been obvious to have included different entities operating the promoting/selling of the goods (i.e. host in Johnson) from the entity that stocks and ships the goods (i.e. distributor warehouse) in order to obtain the above mentioned advantage.

Claims 23, 33-35, 55 further recite a store URL and multiple store each with a different URL. Official notice is taken that is old and well known to use an URL to locate a site on the World Wide Web. Some stores have multiple URL's for each location in order to easily identity of their location. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included a store URL

and multiple store each with a different URL in order to obtain the above mentioned advantages.

With respect to claim 56, Johnson further teaches the host owner receives payment of purchase from a consumer (i.e. host computer 10 prices and processes payments at step 268).

Claim 57 further recites the host adapted to make a payment to one of the distributors from the purchase price and to retain at least a portion of the purchase price as the host owner's profit. Official Notice is taken that it is old and well known in the case where the duties and responsibilities are shared and delegated among different entities as explained above in the rejection of claims 22, 29-32, 35 and 54, 58 to divide or make payments to all the entities involved in order for all the parties to get paid for their duties or services. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included the host adapted to make a payment to one of the distributors from the purchase price and to retain at least a portion of the purchase price as the host owner's profit in order to obtain the above mentioned advantage.

### **Response to Arguments**

5. Applicant's arguments with respect to the have been considered but are moot in view of the new ground(s) of rejection.

**Point of contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raquel Alvarez whose telephone number is (571)272-6715. The examiner can normally be reached on 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric w. Stamber can be reached on (571)272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Raquel Alvarez/  
Primary Examiner, Art Unit 3688

Raquel Alvarez  
Primary Examiner  
Art Unit 3688

R.A.  
5/21/2008